

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. KUL BHARAT, JUDICIAL MEMBER**

| Sr. Nos | ITA No(s)     | Asst. Year(s) | Appeal(s) by Appellant vs. Respondent  |                              | Assessee By             | Revenue By                |
|---------|---------------|---------------|--|------------------------------|-------------------------|---------------------------|
|         |               |               | Appellant  | Respondent                   |                         |                           |
| 1.      | 1622/Del/2021 | 2018-19       | Shades of India Crafts Pvt. Ltd<br>C-277, Flats Gofview Apartments Saket,<br>New Delhi – 110 017<br><br><b>PAN : AAACS 0089 C</b>            | Circle – 22(2)<br>New Delhi  | Shri PC Yadav           | Shri Umesh Takyar, Sr. DR |
| 2.      | 1623/Del/2021 | 2019-20       | --do--   | --do--                       | --do--                  | --do--                    |
| 3.      | 1550/Del/2021 | 2017-18       | Hind Securities and House Keeping<br>19/187D, Pushpa Bhawan, Dakshin Puri Extension, New Delhi-110 062<br><br><b>PAN : AAFH 0038 L</b>       | ITO<br>Ward – 28(5)<br>Delhi | Shri Sourav Roha, C.A.  | --do--                    |
| 4.      | 1551/Del/2021 | 2018-19       | --do--   | --do--                       | --do--                  | --do--                    |
| 5.      | 1552/Del/2021 | 2019-20       | --do--   | --do--                       | --do--                  | --do--                    |
| 6.      | 1558/Del/2021 | 2019-20       | Essex Farms Pvt. Ltd<br>A, Aurobindo Marg,<br>New Delhi,<br>Delhi-110 016<br><br><b>PAN : AAACE 0689 G</b>                                   | Circle – 8(2)<br>New Delhi   | Shri Ranjan Chopra, CA. | --do--                    |
| 7.      | 1610/Del/2021 | 2018-19       | Anil Behl<br>99C, Eastern Avenue,<br>Sainik Farm,<br>Khanpur, New Delhi<br>South Delhi – 110062<br><br><b>PAN : AAAPB 3955 F</b>             | NEAC<br>Delhi                | -None-                  | --do--                    |
| 8.      | 1633/Del/2021 | 2017-18       | EDAG Production Solutions India P. Ltd<br>125b, Somdatt Chamber-I, 5, Bhikaji Kama Place, New Delhi-110 066<br><br><b>PAN : AAACE 6666 K</b> | ACIT<br>New Delhi            | -None-                  | --do--                    |

|     |               |         |   |                               |  |        |
|-----|---------------|---------|---|-------------------------------|--|--------|
| 9.  | 1645/Del/2021 | 2017-18 | Sterling Management and Project Services Pvt. Ltd,<br>C-17, First Floor,<br>Punjabi Bagh West,<br>Shivaji Park,<br>Delhi - 110 026<br><b>PAN : AAJCS 0784 R</b> | DCIT-CPC<br>Delhi             | Shri Priyanshu Goyal and Shubham, C.A. | --do-- |
| 10. | 1650/Del/2021 | 2018-19 | Dharmender Sharma House No.270, Sec-5,<br>Gurugram, Gurgaon<br>Haryana - 122001<br><b>PAN : ABOPS 7718 J</b>  | AO<br>Gurgaon                 | Shri J. S Kochar, C.A.                 | --do-- |
| 11. | 1652/Del/2021 | 2019-20 | Medsol India Overseas Pvt. Ltd.<br>H-421, Govindpuram,<br>Ghaziabad, UP-02<br><b>PAN : AAGCM 3612 H</b>   | ADIT<br>CPC<br>GB Nagar       | -None-                                 | --do-- |
| 12. | 1670/Del/2021 | 2018-19 | Om Prakash & Sons House No.893, Sec-14<br>Faridabad,<br>Haryana-121002<br><b>PAN : AABHO 1042 F</b>   | ITO<br>Ward-1(1)<br>Faridabad | Shri Jitender Verma, C.A.              | --do-- |
| 13. | 1671/Del/2021 | 2018-19 | SB Protech Pvt. Ltd.<br>16, DSIDC Sheds,<br>Okhla Indl. Area,<br>Phase - I,<br>New Delhi-110002<br><b>PAN : AAQCS 4382 N</b>                                    | ITO<br>Ward - 22(4)<br>Delhi  | -None-                                 | --do-- |
| 14. | 1679/Del/2021 | 2019-20 | Girdhari Yadav KA-16, Kaushambi,<br>Ghaziabad, Uttar Pradesh-201 001<br><b>PAN : AAHPY 8779 R</b>   | ADIT<br>CPC<br>Bengaluru      | Shri Aashish Goyal, C.A                | --do-- |
| 15. | 1681/Del/2021 | 2019-20 | Infogain India Pvt. Ltd., A-16 & A-21,<br>Sec-60, Noida,<br>UP-201 301<br><b>PAN : AAACI 8748 Q</b>   | Circle - 12(1)<br>Delhi       | Shri Aarushi Jain, C.A.                | --do-- |
| 16. | 1703/Del/2021 | 2018-19 | E. R Automotives 197, IDC, Hisar Road<br>Rohtak,<br>Haryana-124 001<br><b>PAN : AAAFE 7331 H</b>  | ITO<br>Ward - 3<br>Rohtak     | Shri Alok Sharma, Adv.                 | --do-- |
| 17. | 1742/Del/2021 | 2017-18 | Comnet Exhibitions Pvt. Ltd., C-103,<br>Okhla Industrial Estate, Phase - III,<br>Delhi-110 021<br><b>PAN : AAACC 0685 N</b>                                     | ACIT<br>Circle -4(2)<br>Delhi | Shri B.C. Sistavi, C.A.                | --do-- |

|     |               |         |  |  |                            |        |
|-----|---------------|---------|--|--|----------------------------|--------|
| 18. | 1743/Del/2021 | 2018-19 | --do--   | Assessing<br>Officer,<br>Circle-4(2),<br>New Delhi | --do--                     | --do-- |
| 19. | 1744/Del/2021 | 2018-19 | Kamini Jain<br>B-208E, 2 <sup>nd</sup> Floor,<br>Gali No. 2, Block – B,<br>Majlis Park Adarsh<br>Nagar,<br>Delhi – 110 033<br><br><b>PAN : ANFPJ 1727 K</b>      | Ward – 34(4)<br>Delhi                              | -None-                     | --do-- |
| 20. | 1786/Del/2021 | 2019-20 | Vlink India Pvt. Ltd.<br>19/4, Ground Floor,<br>Dakshin Pur<br>Extension, Ambedkar<br>Nagar,<br>Delhi – 1100 02<br><br><b>PAN : AACCJ 2868 E</b>                 | ITO<br>Ward – 26(3)<br>Delhi                       | -None-                     | --do-- |
| 21. | 1787/Del/2021 | 2018-19 | Sai Extrumech Pvt.<br>Ltd., Plot No.69A,<br>Gali No.4, 16/5,<br>Mathura Road,<br>Karkhana Bagh<br>Faridabad,<br>Haryana-121 001<br><br><b>PAN : AAPCS 7781 J</b> | ITO<br>Ward – 2(3)<br>Faridabad                    | -None-                     | --do-- |
| 22. | 1788/Del/2021 | 2019-20 | --do--   | --do--   | --do--                     | --do-- |
| 23. | 1790/Del/2021 | 2018-19 | Skypack India P. Ltd.<br>Sec – 59, Plot No.190,<br>Mathura Road,<br>Faridabad,<br>Haryana-121 004<br><br><b>PAN : AACCS 5331 F</b>                               | Circle – 2(1)<br>Faridabad                         | Shri Jai<br>Prakash, Adv.  | --do-- |
| 24. | 1794/Del/2021 | 2018-19 | Ashok Kumar<br>House No.1, Raksha<br>Nikunj, MG Brother<br>Wali Street, Boyalhalli<br>Bangalore,<br>Karnataka-110 002<br><br><b>PAN : AKHPK 3133 B</b>           | JAO<br>Delhi                                       | Shri Hemant<br>Jain, Adv.  | --do-- |
| 25. | 1852/Del/2021 | 2018-19 | Colorz N. Style P. Ltd.<br>Flat No. 32E,<br>Fourth Floor, Sec-3,<br>Pocket-C, Dwarka,<br>New Delhi-110 078<br><br><b>PAN : AAFCC 9409 B</b>                      | Circle – 6(1)<br>New Delhi                         | -None-                     | --do-- |
| 26. | 1884/Del/2021 | 2018-19 | Rajnish Gandhi<br>D-1/16, Vasant Vihar<br>New Delhi,<br>Delhi – 110015<br><br><b>PAN : AALPG 4909 R</b>  | Circle – 31(1)<br>Delhi                            | Shri Sanjeev<br>Goyal, C.A | --do-- |

|     |               |         |  |   |   |        |
|-----|---------------|---------|--|---|---|--------|
| 27. | 1885/Del/2021 | 2018-19 | Arnit Creations P. Ltd., 205, 38, Vasant Complex, Veer Savarkar Block, Shakarpur, Delhi – 110092<br><b>PAN : AACCA 4920 G</b>  | Ward – 3(2)<br>Delhi                              | -None-  | --do-- |
| 28. | 1920/Del/2021 | 2018-19 | Flying Green Carriers Pvt. Ltd.<br>C/o. B K Kapur & Co. Chartered Accountants, 17 Navyug Market, Ghaziabad, Uttar Pradesh-201 001<br><b>PAN : AAACF 9272 E</b>                           | Circle – 9(1)<br>Delhi                            | Shri Madhav Kapoor, Adv                                 | --do-- |
| 29. | 1937/Del/2021 | 2018-19 | Meenakshi Speech & Hearing Clinics Pvt. Ltd., 3, Basement, Jagitri Enclave, Shahdara, Delhi-92<br><b>PAN : AAFCM 5405 M</b>  | Assistant Director<br>Ward – 17(1)<br>Delhi       | --None--  | --do-- |
| 30. | 1938/Del/2021 | 2019-20 | --do--   | --do--  | --do--  | --do-- |
| 31. | 1939/Del/2021 | 2019-20 | Shrikanta Banerjee Senjuti, 1 <sup>st</sup> Floor, Plot No.2, St. No.598, New Town AA2, Bidhannagr (M. Crop), 24 Parganas North, Kolkata, West Bengal-70061<br><b>PAN : ADSPB 5241 M</b> | Ward 43(5)<br>Civil Centre<br>E-2 Block,<br>Delhi | Shri Hemant Jain, Adv.                                  | --do-- |
| 32. | 1736/Del/2021 | 2018-19 | SGM Engineers 117, Tagore Park, Model Town, New Delhi-110 009<br><b>PAN : ABLFS 0194 H</b>   | Circle – 36(1)<br>Delhi                           | Shri Vijay Singhal, CA                                  | --do-- |
| 33. | 1738/Del/2021 | 2019-20 | R V Interiors Pvt. Ltd., C-11, 1 <sup>st</sup> Floor, Anand Niketan, New Delhi-21<br><b>PAN : AAECR 9860 J</b>   | Circle – 20(2)<br>New Delhi                       | Ms. Nupur Mangl, C.A.                                   | --do-- |
| 34. | 1713/Del/2021 | 2018-19 | Sainik Surveillance and Security Services Pvt. Ltd., H No. 122, Roshan Vihar, C-Block, Najafgarh, New Delhi-110043<br><b>PAN : AAQCS 6092 K</b>  | ITO<br>Ward – 22(2)<br>New Delhi                  | Shri Venketesh Chaurasia, Adv. and Ms. Mansi Jain, C.A. | --do-- |

|     |              |         |  |                                  |                             |        |
|-----|--------------|---------|--|----------------------------------|-----------------------------|--------|
| 35. | 444/Del/2022 | 2019-20 | S. K. Facility Management Services Pvt. Ltd., C/o Kunal Aggarwal & Associates, 612, 6 <sup>th</sup> Floor, Spaxe Boulevard, Sohna Road, Sec-47, Gurgaon Haryana – 122 001<br><b>PAN : AALCS 0648 C</b> | ITO Circle – 4(1) Gurgaon        | -None-                      | --do-- |
| 36. | 547/Del/2022 | 2019-20 | Pankaj Kumar, C/o. PKSN Associates, 1G-43, BP Second Floor NIT, Faridabad, Haryana- 121 001<br><b>PAN : AIOPK 6966 D</b>   | ITO Ward – 3(2) Gurgaon          | Shri Pramod Ratra, C.A      | --do-- |
| 37. | 451/Del/2022 | 2019-20 | Jaman Lal/Individual RZ-29C, M Block Palam Colony, Raj Nagar, Part – II, South Delhi - 110045<br><b>PAN : AABPL 4559 J</b>   | ITO Ward – 62(2), Delhi          | Ms. Nupur Mangla, C.A.      | --do-- |
| 38. | 479/Del/2022 | 2018-19 | Robin Enterprises 1285/5, Gali No.12, Patel Nagar, Gurugram, Haryana-122001<br><b>PAN : AAFRR 9282 A</b>   | Ward – 6(2)(1) Delhi             | Shri J. S. Kochar, Adv..    | --do-- |
| 39. | 480/Del/2022 | 2019-20 | --do--   | AD of Income Tax – CPC Bengaluru | --do--                      | --do-- |
| 40. | 487/Del/2022 | 2018-19 | Deepak Behl IA-9C, Phase – I, Ashok Vihar, Delhi-110052<br><b>PAN : AEZPB 7448 C</b>   | ACIT Circle – 34(1) Delhi        | Shri Sanjeev Jain, C.A.     | --do-- |
| 41. | 501/Del/2022 | 2018-19 | Balwan Singh Kundu H.No. 38/9, Kishan Garh, Vasant Kunj New Delhi-110007<br><b>PAN : AKIPK 8826 G</b>  | Ward – 70(2) Delhi               | -None-                      | --do-- |
| 42. | 576/Del/2022 | 2019-20 | IE Auto Industrial Enterprises Pvt. Ltd, E-4, Model Town Delhi – 110009<br><b>PAN : AABCI 4078 A</b>   | DCIT Circle – 12(1) Delhi        | Shri A. K. Maheshwari, C.A. | --do-- |

|     |               |         |   |   |  |        |
|-----|---------------|---------|---|---|--|--------|
| 43. | 1649/Del/2021 | 2017-18 | S. S. Saib<br>Construction Pvt. Ltd.<br>House No.2043,<br>Multani Mohallah,<br>North West, Delhi<br>New Delhi-110034<br><br><b>PAN : AAPCS 6297 M</b>                                   | Assessing<br>Officer,<br>Faridabad  | -None-   | --do-- |
| 44. | 1984/Del/2021 | 2017-18 | ACIT<br>Circle – 10(1)<br>Delhi<br><br><b>PAN : AACCO 2154 J</b>  | Gong Cheng<br>Communicati<br>ons Pvt. Ltd.,<br>E-42/2,<br>Okhla<br>Industrial<br>Area, Phase-II<br>New Delhi-20 | Shri<br>Vasudevan<br>and Shir<br>Mahender<br>Singh, Adv.                 | --do-- |
| 45. | 1988/Del/2021 | 2019-20 | GSJ Envo Ltd.,<br>#51, Hemkunt Colony<br>South Delhi, New<br>Delhi<br><br><b>PAN : AAACG 6001 G</b>   | Circle – 10(2)<br>Delhi   | Shri<br>Venkatesh<br>Chaurasia,<br>Adv<br>And<br>Ms. Mansi<br>Jain, C.A. | --do-- |
| 46. | 1991/Del/2021 | 2019-20 | Ujjivan Small Finance<br>Bank Ltd.,<br>Plot No.2364/8,<br>Khampur Raya<br>Village, Shadi<br>Kampur, Main Patel<br>Road, Patel Nagar<br>Delhi – 110 008<br><br><b>PAN : AABCU 9603 R</b> | DCIT-25(1)<br>Delhi   | Ms. Abarna<br>and<br>Ms. Anantha,<br>C.A                                 | --do-- |
| 47. | 1998/Del/2021 | 2018-19 | Raj Kumar Kaushik<br>604/01, Opp. Fire<br>Station, New Rly Road<br>Colony, Gurgaon,<br>Haryana – 122001<br><br><b>PAN : ANPPK 3987 L</b>  | Ward – 3(4)<br>Gurgaon  | -None-   | --do-- |
| 48. | 2003/Del/2021 | 2018-19 | Shiv Pratap Singh<br>Kunwar<br>508, Begum Bagh<br>Chakbandi Road<br>Karoli Ki Kothi,<br>Meerut, UP-01<br><br><b>PAN : AFMPK 3273 Q</b>  | Ward – 1(2)(3)<br>Meerut  | Shri Hemant<br>Jain, Adv.  | --do-- |
| 49. | 435/Del/2022  | 2018-19 | R D Enterprises<br>Villa No. A-458,<br>Amarpali Leisure<br>Valley, Plot No. GH-<br>02, Sec tech Zone-04,<br>Greater Noida, UP-06<br><br><b>PAN : AAKFR 3537 K</b>                       | Ward – 59(7)  | -None-   | --do-- |

|     |              |         |   |                                 |        |        |
|-----|--------------|---------|---|---------------------------------|--------|--------|
| 50. | 441/Del/2022 | 2018-19 | Singh Paramjit<br>Navyar, North West<br>Delhi, 452/8,<br>Bhushan Bhawan<br>Ring Road Flyover<br>Azadpur,<br>New Delhi-33<br><br><b>PAN : AABPN 0741 N</b>   | AO<br>Ward – 36(2)<br>Delhi     | -None- | --do-- |
| 51. | 443/Del/2022 | 2018-19 | S. K. Facility<br>Management Services<br>Pvt. Ltd.,<br>C/o. Kunal Aggarwal<br>& Associates, 612,<br>6 <sup>th</sup> Floor, Spaxe<br>Boulevard, Sohna<br>Road, Sec-47,<br>Gurgaon, Haryana-01<br><br><b>PAN : AALCS 0648 C</b> | ITO<br>Circle – 4(1)<br>Gurgaon | -None- | --do-- |

|                        |            |
|------------------------|------------|
| Date of hearing:       | 25.04.2022 |
| Date of Pronouncement: | 25.04.2022 |

## **ORDER**

### **PER BENCH :**

The present appeals are filed by the above mentioned assesses and Revenue feeling aggrieved by the orders passed by appellate authority for various assessment years mentioned hereinabove.

2. Since the issue in all the appeals are common, therefore we clubbed all of them together for the sake of brevity and convenience. However, we are taking ITA No.1622/Del/2021 as a lead case wherein assessee has raised the following grounds:

- “1. *That on facts and circumstances of the case, the order passed by the Ld. CIT(A) is bad both in the eyes of law and on facts.*

2. *The Ld CIT(A) has erred on facts and in law in upholding the order passed by the Assessing Officer under Section 154/143(1) of the IT Act, 1961.*
3. *The Ld CIT(A) has erred on facts and in law in confirming the addition of Rs.11,81,760/- made by the Assessing officer by invoking the provisions of section 36(1)(va) of the Act, 1961.*
4. *That the Ld CIT(A) has erred on facts and in law ignoring the well-established judicial pronouncements including that of the jurisdiction High Court.*
5. *That Ld CIT(A) has erred on facts and in law in holding that the explanation inserted u/s 36(i)(va) is retrospectively effective while the Memorandum explaining the provisions of Finance Bill 2021 clearly mandates that the amendment will take effect from 01.04.2021 and will accordingly apply to the assessment year 2021-22 and subsequent assessment years.*
6. *That the impugned appellate order is arbitrary, illegal, bad in law and in violation of rudimentary principles of Contemporary jurisprudence.*
7. *That the appellant craves leave to add/alter/any/all grounds of appeal before or at the time of hearing of the appeal.”*

3. Similar grounds with different amounts and assessment years have been raised in other appeals but however the sum and substance and the issue involved in all the appeals are identical.

4. Before us, at the outset, Learned AR submitted that the sole grievance of the assessee is confirming the additions on account of delay in deposit of employee's contribution towards provident fund and ESI fund.

5. Before us, Learned AR submitted that additions has been made in the intimation issued by CPC, Bangalore u/s 36(1)(va) of the Act for the reason that the contribution received towards PF/ESIC by the assessee from its employees was not deposited before the due date. He submitted that though there has been delay in deposit of PF/ESIC Contributions but all the contributions received by the assessee from its employees have been deposited with the appropriate authorities before the filing of return of income by the assessee. He therefore submitted that since the amounts have been deposited before the filing of return of income, no disallowance is called for and for aforesaid proposition, he relied on the decision in the case of **Azamgarh Steel & Power vs. CPC in ITA No.1626/Del/2020 dated 31.05.2021** and **CIT vs. AIMIL Ltd. [2010] 188 Taxman 265 (Delhi) and** various other decisions.

6. Learned DR on the other hand supported the order of lower authorities and also placed reliance on the decision of Delhi Tribunal in the case of **Vedvan Consultants Pvt. Ltd. vs DCIT in ITA No.1312/Del/2020 order dated 26.08.2021**. He also submitted that the amendment brought out by Finance Act 2021 would be applicable to the present case as by the amendment it has been clarified that provisions of Section 43B of the Act shall not apply and shall be deemed never to have been applied to a sum received by the assessee from any of his employees to which the provisions of sub clause (x) of Clause (24) of Section 2 applies.

7. We have heard the rival submissions and perused the material available on record. The issue is no more *res-integra*. The issue has already been settled in favour of the assessee by various judicial pronouncements by the Tribunal. The Hon'ble Jurisdictional High Court of Delhi in the case of ***PCIT vs. Pro Interactive Service (India) Pvt. Ltd. ITA no. 983/2018 dated 10.09.2018*** has already taken a view in favour of the assessee by holding as under:

*“In view of the judgement of the Division Bench of Delhi High Court in Commissioner of Income Tax versus AIMIL Limited, (2010) 321 ITR 508 (Del.) the issue is covered against the Revenue and, therefore, no substantial question of law arises for consideration in this appeal.*

*The legislative intent was/is to ensure that the amount paid is allowed as an expenditure only when payment is actually made. We do not think that the legislative intent and objective is to treat belated payment of Employee's Provident Fund (EPF) and Employee's State Insurance Scheme (ESI) as deemed income of the employer under section 2(23)(x) of the Act.”*

8. As far as reliance by Learned DR on the amendment brought out by Finance Act 2021 is concerned, “notes on clauses” to the Finance Bill 2021 clearly states that the amendment will take effect from 1st April 2021 and will apply in relation to the assessment year 2021-22 and subsequent assessment year. In such a situation, we are of the view that the amendment brought out by Finance Act 2021 does not apply to the assessment year under consideration.

9. Before us, Revenue has not placed any material on record to demonstrate that the aforesaid order cited hereinabove has been overruled/stayed/set aside by higher judicial forum. In view of the aforesaid facts, we are of the view that the AO was not justified in denying the deduction claimed by the assessee on account of late deposit of PF/ESI/EPF, albeit before filing the return of income. Admittedly in all the above-stated matters, the Revenue had not contended that the assessee has deposited the contribution after the filing of the return of income. In view of the above, Respectfully following the decision of the Hon'ble High Court cited hereinabove, **we allow the appeals filed by the assessee and dismiss the appeal of the Revenue.**

**10. In the result, all the appeals filed by the assessee are allowed and one appeal filed by the Revenue is dismissed.**

**Order pronounced in the open court on 25.04.2022**

**Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER**

**Sd/-  
(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

Date:- 25.04.2022  
PY\*

**Copy forwarded to:**

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI